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Senate Education, Health, and Environmental Affairs Committee

Testimony in **OPPOSITION** to **Senate Bill 830**

Natural Resources – Oysters – Spat, Shells, and Substrates

March 1, 2022

The Delmarva Fisheries Association (DFA) urges an **unfavorable** report on Senate Bill 830. As introduced, such legislation would make a wide range of changes to various programs, goals, research requirements, planning requirements, and funding requirements related to oyster spat, oyster shells, and oyster substrate.

DFA concerns with SB 830 include:

- no opportunity for input by the Oyster Advisory Commission (OAC) or coordination with the Final Report: *Oyster Advisory Commission Consensus Recommendations on Oyster Management*, dated December 1, 2021 (Section 1 is attached);
- a significant fiscal note and no accountability in terms of the high (+/- 95%) mortality rate of hatchery spat when planted in the wild (out of one million planted “baby oysters” from hatcheries maybe 50,000 survive and mature to market size);
- limited resources dedicated to the commercial fishery being diluted, reallocated or wasted on inefficient and/or unproven or programs (i.e., tapping the Fisheries Research and Development Fund);
- methodology and scope of a program to survey portions of Chesapeake Bay bottom;
- a grant program for restaurants and seafood processors that is likely to drive up the cost of much-needed oyster shells for oyster propagation; and
- uncodified language beginning on line 30, page 2, to line 13, page 9, which sets policies and goals relative substrate and the production of hatchery spat.

For these reasons, DFA urges an unfavorable report on SB 830 and **recommends referral to the Oyster Advisory Commission for stakeholder consideration.**

DFA represents over 80% of the commercial watermen in Maryland; individuals whose work and unique way of life spanning several generations depend upon sustainable harvests in a healthy Bay.

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Section 1. Report from the Oyster Advisory Commission

Consensus Process: Package of Recommendations

The Oyster Advisory Commission (OAC) provided the Maryland Department of Natural Resources with an approved package of recommendations. This package was voted on by the commission on November 8, 2021 and received 80% agreement among the commissioners. All voting members were in attendance on November 8, 2021.

OAC Recommendations

This document contains the consensus recommendations of the Oyster Advisory Commission. These recommendations are based on options that were rated with an agreement level of 75% or higher and the text has been approved by commissioners at the November 8, 2021 OAC meeting. OAC members have considered more than 100 options in developing this list of consensus recommendations.

Legislation passed by the General Assembly in 2019 tasked the Oyster Advisory Commission with developing a set of consensus management actions for enhancing and implementing the fisheries management plan for oysters and to achieve the targets identified in the oyster stock assessment with the goal of increasing oyster abundance. Despite considerable effort and complications from the pandemic, the OAC has been able to reach consensus on a management action that would have positive impacts on oyster abundance and habitat, as called for in the legislation. While the consensus recommended should result in improvement, OAC commissioners will continue deliberations to develop further actions that will result in benefits at a desirable scale.

Shell and Substrate Resource Recommendations. There is an important need for clean shell and substrate that will support enhancement of all sectors of the oyster resource, including the public fishery, aquaculture, and public and private restoration efforts.

- DNR should evaluate and develop cost effective strategies for identifying and obtaining sources of shells and substrate.

- DNR should review the current state laws and regulations to evaluate and develop potential strategies, including providing economic incentives, to retain shell in the state of Maryland and reuse it.

➤ DNR should support a Maryland-wide substrate action subcommittee of the OAC to evaluate strategies, costs, and benefits for substrate enhancement.

➤ DNR should work collaboratively with the OAC to commission an academic peer-reviewed study to evaluate the ability of bar cleaning in low/underperforming harvest areas to promote improved spat sets.

Monitoring and Marking Recommendations. Enforcement and monitoring play an important role in ensuring the protection of the oyster resource and the timely tracking of its status. The recommendations are:

➤ DNR should work to improve the Fall Dredge Survey (e.g., new locations, fall dredge survey before start of fishery, cooperative survey with industry, etc.).

➤ DNR should develop tools to mark navigation hazards and oyster management boundaries.

Management Action Recommendations. This recommendation is the management recommendation evaluated by the model, as called for in the legislation, that earned the consensus of the group. The OAC recommends that the following actions be taken to rebuild oyster populations, enhance harvest revenue, increase habitat, and reduce nitrogen and phosphorus in Maryland's Chesapeake Bay.

➤ Over the next 25 years, a combination of replenishment, restoration and aquaculture activities should be collectively planned and undertaken in Eastern Bay, with an equal amount of funding for spat planting in sanctuaries (\$1M annually adjusted for inflation) and for spat and shell planting on fishery bars (\$1M annually adjusted for inflation) in addition to current replenishment and restoration activities. The effectiveness of this option should be evaluated every 5 years.

➤ The OAC supports keeping the oyster fishery open.

➤ The OAC supports replenishment plantings on oyster fishery bottom.

Business Practices, Investment Allocation, & Marketing Recommendations. OAC members recommend the following:

➤ Improve organization and cooperation among groups and integrate projects across the 3 sectors (fishery, aquaculture, restoration).

- Improve processor capabilities and techniques (e.g., more shucking houses, develop frozen product).
- Use bars north of the Bay Bridge as “investments” against disease outbreaks in lower Bay.
- Use nutrient credit opportunities to help finance restoration on sanctuaries and replenishment on public fishery bottom in Maryland’s Chesapeake Bay.

Education and Training Recommendations. There is an important need to educate and train citizens about stewardship of the oyster fishery and resources to maintain it for current and future generations.

- Special effort should be placed on outreach and education in minority communities to enhance awareness of the oyster resource and associated career opportunities and environmental benefits.

Improved Science Recommendations. OAC members identified several knowledge gaps, which if filled, would enhance management of the oyster resource.

- Conduct a comprehensive survey of the Maryland Bay bottom with a focus on describing the current amount, quality, and location of oyster habitat.
- Develop the ability to make stock assessment projections of abundance and harvest.
- Determine ways to reduce sedimentation.
- Conduct studies to estimate the loss rates of shell (both newly planted and existing bottom) and artificial substrate.
- OAC should be a mechanism for reviewing studies and stock assessments, as requested by commissioners.

Membership

Under the consensus building process defined in statute (§4–204), 60% of the OAC members must be oyster industry orientated (e.g., public fishery and aquaculture) and 40% non-industry orientated (e.g., environmental groups and academia). Member

organizations are codified in statute, and the list of individual commissioners selected by their organization are:

Type	Commissioner	Organization
Voting Members	Keith Bradley (proxy John Edwards)	Wicomico County Oyster Committee
	Robert T Brown	Maryland Watermen's Association
	Mark Bryer	The Nature Conservancy
	Keith Busick	Baltimore County Oyster Committee
	Allison Colden (proxy Doug Myers)	Chesapeake Bay Foundation
	Jack Cover	National Aquarium
	Simon Dean (proxy Rachel Dean)	Calvert County Oyster Committee
	Ron Fithian	Kent County Oyster Committee
	Matt Fowler (proxy Bill Kiliniski)	Charles County Oyster Committee
	Reggie. Harrell	Aquaculture Coordinating Council
	Jeff Harrison	Talbot County Oyster Committee
	Brian Hite (proxy Nick Lane)	St Mary's County Oyster Committee
	Jesse Iliff	Arundel Rivers Federation
	Scott Knoche (proxy Brittany Wolfe-Bryant)	Morgan State University PEARL
	Vincent Leggett (proxy Tyrone Meredith)	Blacks of the Chesapeake
	Tom Miller	University of Md Center for Environmental Science
	Jim Mullin	Maryland Oystermen Association
	Matt Pluta (proxy Elle Bassett)	ShoreRivers
Jason Ruth	Harris Seafood Company (Seafood Dealer)	

	Johnny Shockley	Blue Oyster Environmental
	David Sikorski	Maryland Coastal Conservation Association
	Ann Swanson (proxy Mark Hoffman)	Chesapeake Bay Commission
	Daniel Webster	Somerset County Oyster Committee
	Bob Whaples	Dorchester County Oyster Committee
	Troy Wilkins	Queen Anne's County Oyster Committee
	Rob Witt (proxy Rob Howes)	Anne Arundel County Oyster Committee
	<i>Vacant (Opted Not to Participate)</i>	BaySavers
	<i>Vacant (Recused Themselves)</i>	Oyster Recovery Partnership
Non-Voting Members	Marlon Amprey	Maryland House of Delegates
	Sean Corson	National Oceanic and Atmospheric Administration
	Sarah Elfreth	Maryland Senate
	Steve Hershey	Maryland Senate
	Christopher Judy	Maryland Department of Natural Resources
	Johnny Mautz	Maryland House of Delegates
	Angie Sowers	U.S. Army Corps of Engineers